IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 497 OF 2006
IN
SUMMONS FOR JUDGEMENT NO. 19 OF 2005
IN
SUMMARY SUIT NO. 2621 OF 2001

M/s. Aarti Polymers & Ors. .. Appellants.

V/s.

Calchem Industries (I) Ltd., ..Respondents.

Mr.B.L.Gandhi with Mr. K.C.Pandey for the Appellants.

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATED : 08th SEPTEMBER, 2006.

P.C.:

. We heard the counsel for the Appellants and perused the impugned order.

2. It is not in dispute that the goods under the three invoices dated 22nd May, 1998, 3rd June, 1998 and 7th August, 1998 were received by the Appellants. The amount was payable pursuant to the said invoices on receipt of goods on 28th July, 1998, 1st August, 1998 and 5th October, 1998 respectively. The payment was not made. The fact that the goods were received under the aforesaid three invoices by the Appellants, is not in

dispute. Until the notice from the Advocate of the plaintiffs was received for payment of due amount, no objection was raised by the appellants regarding the quality of the goods. It is only after the notice was received from the plaintiffs for payment of goods delivered to the appellants, the appellants raised the grievance about the quality of the goods. The counsel for the appellants admitted before us that the goods were never returned to the plaintiffs. In this backdrop of facts, the finding of the learned trial Judge that the defendants have no defence on merit and that a bogus defence has been raised, cannot be said to suffer from any error. As a matter of fact, the court showed mercy by directing the defendants to deposit a sum of Rs.5,00,000/- (Rupees five lakh) and granted leave to the defendants to defend the suit.

3. No case for interference is made out.

4. Appeal is dismissed in limine.

(R.M.LODHA,J.)

(S.A.BOBDE,J.)

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